

STATE OF MICHIGAN JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	ORDER OF DISPOSITION (CHILD PROTECTIVE PROCEEDINGS), PAGE 1 ORDER ____ OF ____	CASE NO. PETITION NO.
Court address		Court telephone no.

1. In the matter of name(s), alias(es), DOB

2. Date of hearing: _____ Judge/Referee: _____ Bar no.

A ☐ 3. Removal date: _____ (specify for each child if different)

4. An adjudication was held and the child(ren) was/were found to come within the jurisdiction of the court.

THE COURT FINDS:

B ☐ 5. Notice of hearing was given as required by law.

C 6. The lawyer-guardian ad litem ☐ has ☐ has not complied with the requirements of MCL 712A.17d.

D ☐ 7. ☐ a. There is probable cause to believe the legal/putative father(s) is/are:
 (name each child, his/her father, and whether legal or putative)

☐ b. The putative father of _____ is unknown and cannot be identified.

☐ c. The natural father was notified as required by law and failed to establish paternity within the time set by the court. The natural father waives all rights to further notice, including the right to notice of termination of parental rights and the right to an attorney.

E 8. The court has considered the case service plan and other evidence presented. The findings below are specific to this case and are based upon this hearing, and ☐ the following report(s): _____
identify report(s) and date(s) of report(s)

Specific conditions reviewed on the record as required by MCL 712A.18f(4) were

- a. compliance with the case service plan with respect to services provided or offered to the child and his or her parent(s), guardian, or legal custodian and whether the parent(s), guardian, or legal custodian complied with and benefited from those services.
- b. compliance with the case service plan with respect to parenting time with the child and whether parenting time did not occur or was infrequent and the reasons why.
- c. the extent to which the parent(s), guardian, or legal custodian complied with each provision of the case service plan, prior court orders, and any agreement between the parent(s), guardian, or legal custodian and the agency.
- d. likely harm to the child if the child continued to be separated from his or her parent(s), guardian, or legal custodian.
- e. likely harm to the child if the child was returned to his or her parent(s), guardian, or legal custodian.

NOTE: If the child(ren) were not removed prior to the dispositional hearing and new allegations are made which require removal, a supplemental petition must be prepared and filed and a preliminary hearing held, whereupon contrary to the welfare and reasonable efforts findings must be made.

(SEE SECOND PAGE)

Do not write below this line - For court use only

STATE OF MICHIGAN JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	ORDER OF DISPOSITION (CHILD PROTECTIVE PROCEEDINGS), PAGE 2 ORDER ____ OF ____	CASE NO. PETITION NO.
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In the matter of

☐ 9. ☐ a. Reasonable efforts to prevent removal of the child(ren) from the home were made as determined in a prior order.

☐ b. Reasonable efforts were made to prevent removal of the child(ren) from the home. Those efforts include: (specify)

☐ c. Reasonable efforts to prevent removal of the child(ren) from the home were not made.

☐ d. Reasonable efforts to prevent removal were not required as determined in a prior order.

☐ 10. a. Reasonable efforts are not required to prevent the child(ren)'s removal from the home due to
☐ the ☐ mother's ☐ father's subjecting the child(ren) to the aggravated circumstance(s) of _____ as provided in section MCL 722.638(1) and (2), and as evidenced

by _____.

☐ the ☐ mother's ☐ father's conviction for murder of another child of the parent.

☐ the ☐ mother's ☐ father's conviction for voluntary manslaughter of another child of the parent.

☐ the ☐ mother's ☐ father's conviction for aiding or abetting in the murder or manslaughter of another child of the parent, attempting to murder the child(ren) or another child of the parent, or conspiring or soliciting to commit the murder of the child(ren) or another child of the parent.

☐ the ☐ mother's ☐ father's conviction for felony assault that resulted in serious bodily injury to the child(ren) or another child of the parent.

☐ the ☐ mother's ☐ father's involuntary termination of parental rights to a sibling of the child(ren).

b. Reasonable efforts to preserve and reunify the family to make it possible for the child(ren) to safely return home are

☐ not required because the parent subjected the child or another child of the parent to one of the circumstances stated above.
OR
☐ still recommended because:

(when item 10 is checked, either complete item 16 below or schedule a permanency planning hearing within 30 days of this determination)

☐ 11. ☐ a. Reasonable efforts shall be made to preserve and reunify the family to make it possible for the child(ren) to safely return home.

☐ b. Reasonable efforts shall not be made to preserve and reunify the family because it would be detrimental to the child(ren)'s health and safety.

☐ c. Reasonable efforts to preserve and reunify the family were not previously required, but due to a change in circumstances, reasonable efforts are now required. Those reasonable efforts have begun and include: (specify reasonable efforts, and if applicable, the reasons for return)

☐ The child(ren) should be released to _____
 Name of parent, guardian, or legal custodian

(SEE THIRD PAGE)

STATE OF MICHIGAN JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	ORDER OF DISPOSITION (CHILD PROTECTIVE PROCEEDINGS), PAGE 3 ORDER ____ OF ____	CASE NO. PETITION NO.
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Court address

Court telephone no.

In the matter of

- I** ☐ 12. Since reasonable efforts to prevent removal or to reunite the child(ren) and family are not required, a permanency planning hearing was conducted. (use and attach form JC 64, Order Following Permanency Planning Hearing, Pre-Termination)
- J** ☐ 13. Conditions of custody in the home and with the individual with whom the child(ren) reside(s)
- ☐ a. are adequate to safeguard the child(ren) from the risk of harm to the child(ren)'s life, physical health, and mental well-being.
- ☐ b. are not adequate to safeguard the child(ren) from the risk of harm to the child(ren)'s life, physical health, and mental well-being.
- ☐ No provision of service or other arrangement except removal of the child(ren) is reasonably available to adequately safeguard the child(ren) from the risk of harm to the child(ren)'s life, physical health, and mental well-being.
- ☐ Conditions of custody at the placement away from the home and with the individual with whom the child(ren) is/are placed are adequate to safeguard the child(ren)'s life, physical health, and mental well-being.
- K** ☐ 14. Parenting time with _____, even if supervised, may be harmful to the child(ren).

IT IS ORDERED:

- L** ☐ 15. _____ is warned and the jurisdiction of the court is terminated.
Name
- M** ☐ 16. Notice is to be given to the legal/putative father(s) as required by law. ☐ The father was not present and must appear at the next hearing. ☐ The putative father was present at this hearing and shall establish paternity within 14 days.
- N** ☐ 17. The child(ren) is/are in the temporary custody of this court and
- ☐ is/are placed with the Department of Human Services for care and supervision, and
- a. the parent, guardian, or legal custodian shall execute all documents necessary to release confidential information regarding the child(ren), including medical, mental, and educational reports, and shall also, within 7 days, provide the Department of Human Services with the name(s) and address(es) of the medical provider(s) for the child(ren). Any medical provider of the child(ren) shall release the medical records of the child(ren) to the Department of Human Services.
- b. if a home study has not yet been completed, then one shall be performed by the Department of Human Services and a copy of the home study submitted to the court not more than 30 days after the placement.
- c. upon request, the Department of Human Services shall release to the foster parent the information concerning the child(ren) in accordance with MCL 712A.13a(13).
- ☐ remain home with or is/are released to _____
Name of parent, guardian, or legal custodian
- under the supervision of the Department of Human Services. ☐ The following terms and conditions apply to the parent/guardian/legal custodian:

- O** ☐ 18. The Director of the Michigan Department of Human Services is appointed special guardian to receive any benefits now due or to become due the child(ren) from the government of the United States.
- P** 19. The parent(s), guardian, or legal custodian shall comply with, and benefit from, the case service plan. ☐ In addition,

(SEE FOURTH PAGE)

STATE OF MICHIGAN JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	ORDER OF DISPOSITION (CHILD PROTECTIVE PROCEEDINGS), PAGE 4 ORDER ____ OF ____	CASE NO. PETITION NO.
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Court address

Court telephone no.

In the matter of

IT IS ORDERED: (continued)

- Q** ☐ 20. Parenting time of _____ is
☐ supervised by the Department of Human Services and/or its designee.
☐ unsupervised at the discretion of the Department of Human Services.
☐ suspended while psychological evaluation or counseling is conducted, or until further order of the court.

- Q** ☐ 21. Parenting time of _____ is
☐ supervised by the Department of Human Services and/or its designee.
☐ unsupervised at the discretion of the Department of Human Services.
☐ suspended while psychological evaluation or counseling is conducted, or until further order of the court.

- Q** ☐ 22. Parenting time of _____ is
☐ supervised by the Department of Human Services and/or its designee.
☐ unsupervised at the discretion of the Department of Human Services.
☐ suspended while psychological evaluation or counseling is conducted, or until further order of the court.

- R** ☐ 23. Reimbursement:

- ☐ 24. Other: (attach separate sheet if needed)

- S** 25. Prior orders remain in effect except as modified by this order.

- T** ☐ 26. Review hearings shall be held as follows:
(NOTE: The review hearing shall not be delayed beyond the number of days required regardless of whether a petition to terminate parental rights or another matter is pending. MCL 712A.19a provides that the permanency planning hearing shall not be delayed beyond 12 months from the date of removal of the child and every 12 months thereafter.) ☐ dispositional review hearing _____
☐ dispositional review hearing _____ ☐ permanency planning hearing _____
The supervising agency shall provide documentation of progress relating to all aspects of the last court-ordered treatment plan, including copies of evaluations and therapy reports and verification of parenting time, not later than 5 business days before the scheduled hearing.

- U** 27. ☐ Notice of the next hearing has been provided as required by law. ☐ Notice of the next hearing shall be provided.

Date

Judge

MCL 722.638 - AGGRAVATED CIRCUMSTANCES

- (1) The Department shall submit a petition for authorization by the court under Section 2(b) of Chapter XIIA of 1939 PA 288, MCL 712A.2, if one or more of the following apply:
- (a) The Department determines that a parent, guardian, or legal custodian, or a person who is 18 years of age or older and who resides for any length of time in the child's home, has abused the child or a sibling of the child and the abuse included one or more of the following:
- Abandonment of a young child.
 - Criminal sexual conduct involving penetration, attempted penetration, or assault with intent to penetrate.
 - Battering, torture, or other severe physical abuse.
 - Loss or serious impairment of an organ or limb.
 - Life threatening injury.
 - Murder or attempted murder.
- (b) The Department determines that there is risk of harm to the child and either of the following is true:
- The parent's rights to another child were terminated as a result of proceedings under Section 2(b) of Chapter XIIA of 1939 PA 288, MCL 712A.2, or a similar law of another state.
 - The parent's rights to another child were voluntarily terminated following the initiation of proceedings under Section 2(b) of Chapter XIIA of 1939 PA 288, MCL 712A.2, or a similar law of another state.
- (2) In a petition submitted as required by subsection (1), if a parent is a suspected perpetrator or is suspected of placing the child at an unreasonable risk of harm due to the parent's failure to take reasonable steps to intervene to eliminate that risk, the Department of Human Services shall include a request for termination of parental rights at the initial dispositional hearing as authorized under Section 19b of Chapter XIIA of 1939 PA 288, MCL 712A.19b.

Instructions for Using JC 17

This form combines previous forms JC 17 and JC 26, which were orders of disposition for children remaining in the home (JC 17) and children removed from the home (JC 26).

- A** 3. The removal date is prominently placed to make it clear when subsequent review hearings must occur. In addition, there is a check box here because the children may not have been removed from the home.
- B** 5. The court may need to find proper notice was given, because pursuant to MCR 3.973(D)(3), the court may proceed in the absence of parties provided that proper notice has been given. Proper notice is defined in MCR 3.973(B), which specifies “notice may be given by scheduling it on the record in the presence of the parties or in accordance with MCR 3.920.” Notice may also be waived, but MCR 3.920(E) requires such a waiver to be in writing. However, MCR 3.920(G) also allows the appearance and participation of a party at a hearing to act as a waiver by that party of a defect in service, unless the party objects on the record regarding the specific notice defect. A court’s best practice would ensure that any waiver of notice be made in writing. Respondents are entitled to notice by summons of both trials and termination hearings, pursuant to MCR 3.920(F).
- C** 6. MCL 712A.17d requires the lawyer-guardian ad litem (L-GAL) to meet with or observe the child before the initial disposition. This new provision requires the court to determine whether such contact or observation has occurred. L-GALs are required to meet with or observe the child in the following instances:
 - a. Before the pretrial hearing
 - b. Before the initial disposition, if held more than 91 days after the petition has been authorized
 - c. Before a dispositional review hearing
 - d. Before a permanency planning hearing
 - e. Before a post-termination review hearing
 - f. At least once during the pendency of a supplemental petition
 - g. At other time as ordered by the court

Adjourned or continued hearings do not require additional visits unless ordered by the court, and the court may also order alternative means of contact with the child if good cause is shown on the record to do so.

Note that there is no “contrary to the welfare” provision on this form. Pursuant to MCL 712A.19, if DHS “becomes aware of additional abuse or neglect of a child who is under the jurisdiction of the court and” if DHS substantiates that abuse or neglect, DHS is required to file a supplemental petition with the court. The supplemental petition will trigger a preliminary hearing, at which point the “contrary to the welfare” and “reasonable efforts to prevent removal” findings must be made. In other words, if the circumstances prior to disposition have not led the court to require removal of the child, removal at this stage would only be appropriate if new allegations of abuse or neglect have occurred, and a supplemental petition has been filed. Once a supplemental petition is filed, the court would proceed with a preliminary hearing.

Instructions for Using JC 17 (continued)

This order does include findings regarding “reasonable efforts to prevent removal” at items 9-10 because it may be the case that disposition occurs within 60 days of removal, and the court would still be able to make those findings to be eligible for Title IV-E funding.

D 7. There is a check box in front of item 7 because identifying the father at disposition is not mandatory, although obviously that identification should be accomplished at the earliest possible time at any point in the proceedings.

E 8. As part of the disposition, the court is required to consider the respondent’s compliance with the case service plan. MCL 712A.18f(4); MCL 3.973(F)(2). For the jurist’s convenience, the specific conditions that must be reviewed at disposition are listed on the face of the form.

F 9. The check box before the number alerts the judge or referee that “reasonable efforts to prevent removal” findings are optional here either because they were made previously, because item 10 can be checked instead or because the children have not been removed from the home. Courts have 60 days from the removal date to make “reasonable efforts” findings to comply with MCR 3.965(D)(1) and to ensure federal funding for Title IV-E eligible children. The options regarding “reasonable efforts” in this item are that: 1) they were made in a prior order;; 2) they are being made in this order;; 3) they were not made (as part of a prior order or for present purposes); or 4) they were not required to be made, as determined in a prior order.

MCL 712A.18f(4) requires the court to state, on the order of disposition, whether reasonable efforts have been made to prevent the child’s removal from his or her home or to rectify the conditions that caused the child’s removal from his or her home. The forms committee removed the second provision on the belief that the initial language (reasonable efforts to prevent removal) covered the situations envisioned in the second provision.

G 10. The check box before the number alerts the judge or referee that these findings are optional here either because item 9 can be checked instead or because the children have not been removed from the home. This provision specifically addresses the situation in which reasonable efforts to prevent removal are **not** required to be made when children have been removed from the home. It also incorporates findings regarding the fact that reasonable efforts to reunify the family are **not** required or are still recommended.

Courts are allowed to find that reasonable efforts to prevent removal are not required because the offense fits within specific federal and state exemptions to the “reasonable efforts” requirement. See MCR 3.965(D)(2); 45 CFR 1256.21(b)(3). The offenses for which a court can find that reasonable efforts to prevent removal are not required include both aggravated circumstances as defined by Michigan’s Child Protection Law (MCL 722.638) as well as specific situations listed in the federal regulations. The aggravated circumstances included in our state law are set forth for the court’s convenience on page 4 of the form, and the federal regulations allowing for no “reasonable efforts” finding are listed in this provision. Keep in mind that finding reasonable efforts are not required *triggers the requirement that a permanency planning hearing be held within 30 days*. 45 CFR 1356.21(h)(2).

Instructions for Using JC 17 (continued)

State statutes also require reasonable efforts to preserve and reunify the family unless there are aggravated circumstances. MCL 712A.19a(2). Further, the statute states that if there is a judicial determination that reasonable efforts to reunite the child and family are not required, the court must hold a permanency planning hearing within 30 days. Thus, a permanency planning hearing must be held within 30 days of a judicial determination that reasonable efforts to prevent removal or to preserve and reunify the family are not required. There is also an option in this section of the form to allow the court to require reasonable efforts to preserve and reunify the family continue, if the court finds it appropriate to do so.

- H** 11. If children have not been removed from the home or item 10 is checked, the court need not make findings regarding “reasonable efforts to preserve and reunify”. Therefore, this entire item is optional. If, however, children are removed from the home and the court is making reasonable efforts findings at the pretrial hearing and item 10 is not checked, one of the options in this item must be checked because federal law regulations require that “reasonable efforts” to preserve and reunify the family, except when not required, must be made whenever a child is removed from the home. The options are that reasonable efforts to preserve and reunify shall be made or reasonable efforts to preserve and reunify shall not be made because it would be detrimental to the child(ren)’s health and safety. Since a plan for reunification may include release of a child to the parents, there is a check box in which the court can specify release to a parent, guardian, or legal custodian.

MCL 712A.18f(4) requires the court to state, on the order of disposition, whether reasonable efforts were made to rectify the conditions that caused the child’s removal from his or her home.

- I** 12. Another option at disposition is holding a permanency planning hearing. Item 12 is designed to be used by courts that hold a permanency planning hearing immediately after disposition at which it found that reasonable efforts to prevent removal or to reunify the family are not required. The use note makes it clear that JC 64 should also be used in this situation. Notice requirements must still be met (or a signed waiver of notice completed by the respondent[s]) if the court intends to hold a permanency planning hearing immediately after disposition.

- J** 13. MCL 712A.13a(5) requires that if a petition alleges abuse by a parent, guardian, legal custodian, nonparent adult, or other person residing in a child’s home, regardless of whether the court orders the alleged abuser to leave the child’s home or not, the court shall not leave the child in or return the child to the child’s home or place the child with a person unless the court finds that “the conditions of custody at the placement and with the individual with whom the child is placed are adequate to safeguard the child from the risk of harm to the child’s life, physical health, or mental well-being” Since a child has already been removed in a previous order or is being removed at this point, it is presumed that abuse has been alleged in the petition. Therefore, either a. or b, of this item must be checked

- K** 14. MCL 712A.13a requires this finding if a court wants to order a psychological evaluation or counseling for the child. That statute also allows a court to suspend parenting time while the evaluation or counseling continues.

Instructions for Using JC 17 (continued)

- L** 15. This is the first of the options a court has at disposition; i.e., terminating jurisdiction of the court.
- M** 16. This provision includes the choices a court may make regarding putative fathers.
- N** 17. This provision includes options for placement with DHS for care and supervision (required for Title IV-E eligibility), or for a child to remain home or be returned home under supervision of DHS and with optional terms and conditions a court may order. This item is optional because the court can dismiss the petition at disposition (item 15).
- O** 18. This provision allows Michigan's Department of Human Services to receive government benefits to which the child is eligible, as a way to offset the costs and expenses incurred by the state in providing services and placing the child in foster care.
- P** 19. This provision requires the parent, legal custodian, or guardian to comply with, and benefit from, the case service plan. MCR 3.975. It also allows the court to add additional requirements as part of the disposition.
- Q** 20-22. These identical parenting time provisions allow the court to order parenting time (supervised or unsupervised) or to suspend parenting time while the child undergoes the psychological evaluation or counseling ordered in item 15 of this form. And while MCL 712A.19b(4) and MCR 3.977(D) require that parenting time be suspended in cases in which a petition to terminate parental rights is filed, the court can order parenting time if the parent establishes, and the court determines, that the parenting time will not harm the child. If the parent cannot establish, or the court does not determine that allowing parenting time will not harm the child, the statute requires parenting time to remain suspended until the termination petition is adjudicated or the issue is settled.

Three separate parenting time provisions are included to accommodate different parenting time schedules, but if parenting time is the same for all parties, only one item need be filled out.
- R** 23. MCL 712A.18 requires that reimbursement be ordered at disposition in all cases in which a child is placed in foster care.
- S** 25. Typically, specific provisions of an order remain in effect if this language is present (that "prior orders remain in effect except as modified by this order"). However, this has been an issue with DHS, which has refused to authorize payment unless the most recently-entered court order requiring a particular service continues to reflect that court's ordering of that service. As a best practice, and to avoid the issue of whether the court is continuing to order a particular service DHS is responsible for, a court should specifically order, in each consecutive order, any service (such as drug testing), supervision (for parenting time), or placement that requires financial funding by DHS. In addition, as a best practice, courts should indicate in each order that reasonable efforts to prevent removal were made in a prior order (whether those efforts are required or not) to clarify that those findings have been made, which then allows for funding for those eligible under Title IV-E.

Instructions for Using JC 17 (continued)

- T** 26. Disposition is an excellent time for the court to plan for subsequent review hearings. This provision offers the court the opportunity to lay out the hearings for the first year. MCL 712A.19(3) requires an initial review hearing be held not more than 182 days after the child's removal (for a child in foster care) or the filing of a petition (for a child who remains in his or her home). After the first review hearing, subsequent hearings are required every 91 days for the first year. After the first year, review hearings are required not later than 182 days from the prior review hearing.

This schedule is designed to bring a case before the court (after preliminary hearing) at least four times the first year, approximately every 91 days. Current court rules allow for disposition for a child in placement to occur within approximately 98 days if the trial is begun within 63 days pursuant to MCR 3.972 (and is completed within a reasonable time thereafter), and disposition occurs within an additional 35 days, as required by MCR 3.973. No matter when disposition occurs, the initial dispositional review must still occur within 182 days of removal. A best practice is to aim for disposition at the 91-day mark, rather than the 98-day mark envisioned in the court rules. Then, when the court schedules its first dispositional review hearing 91 days later, it is still within the mandatory 182-day review requirement.

If the disposition occurs close to the 91-day point, and the subsequent review hearings occur at 182 days and 273 days after removal, the final review hearing for the first year in placement (364 days) would occur at about the same time the initial permanency planning hearing is required. Thus, there are spaces on the order of disposition for two review hearings (presumably the 182-day and 273-day reviews) and a permanency planning hearing, which can be combined with a review hearing. This scheduling is designed to make it easier for courts to meet the statutory and regulatory deadlines without scheduling additional hearings.

- U** 27. These provisions are designed to make notice easier for the courts and help keep the parties, parties' counsel and the court on a schedule. If all parties are present at the disposition, and the court selects a date for the next review hearing, the court would check the first box indicating that the parties present received notice of the next hearing. If a party is not present, separate notice is required.

Instructions for Using JC 17 (continued)

Note: Termination of parental rights at the initial disposition

Pursuant to MCR 3.977(E), the court must order termination of parental rights at the initial dispositional hearing and must order no additional efforts for reunification between the child and the respondent be made if:

1. The original or amended petition contains a request for termination of parental rights;
2. At the trial or plea proceedings, the trier of fact finds by a preponderance of the evidence that one or more grounds for taking jurisdiction of the child have been established; and
3. At the initial disposition hearing, the court finds by clear and convincing legally admissible evidence that one or more of the facts alleged in the petition are true, and come within MCL 712A.19b(3).¹

However, even if the case meets the above provisions, the court may choose not to terminate parental rights if it finds, by clear and convincing evidence, that termination of parental rights is not in the best interests of the child.

¹ The sole exception to this provision is MCL 712A.19b(3)(c), which allows for termination when the same conditions that led the court to take jurisdiction of the child continue to exist at least 182 days after the initial disposition. Since termination under this subsection could only occur by definition at least 182 days after the initial disposition, it could never form the basis for termination at the initial disposition.